

April 6, 2011

The Honorable Ted Lieu
Chair, Senate Labor and Industrial Relations Committee
State Capitol, Room 4090
Sacramento, CA 95814

**RE: SB 826 (Leno) – Workers’ Compensation: Data Reporting Administrative Penalties
OPPOSE**

Dear Senator Lieu:

The California Coalition on Workers’ Compensation (CCWC) is an association of California’s public and private sector employers that advocates for a balanced workers’ compensation system that provides injured workers with fair benefits and keeps costs low for employers. Our members include not only businesses of every size, but also cities, counties and other public entities.

CCWC is opposed to SB 826 (Leno), which would impose administrative penalties on claims administrators for failure to comply with “any data reporting requirement” in regulations that were adopted to implement the Workers’ Compensation Information System (WCIS). While we will concede that compliance is important for having reliable information available for purposes of analyzing trends, we would question the timing of imposing additional penalties on employers and other claims administrators.

Bill Penalizes More than “Failure to Report”

The Fact Sheet provided by the author and sponsor seems to indicate that the problem targeted by this legislation is complete non-compliance with the reporting requirements. The only evidence of a problem is a Commission on Health and Safety and Workers’ Compensation (CHSWC) report that finds 10-25% of required filings are either incomplete or completely blank. However, the bill would require penalties “for failing to comply with any data reporting requirement” contained in the regulations that implement the WCIS.

The WCIS regulations adopted by the Division of Workers’ Compensation in 2010 require claims administrators to submit several hundred data points per claim as specific milestones are met in the life of the claim. SB 826 requires that penalties be applied to any failure to comply with “any data reporting element adopted pursuant to this section”. This seems to indicate that the penalties would apply to data reporting mistakes in addition to an overt failure to report.

The \$5000 maximum penalty applies *per type of violation*, which means that the total penalties required by SB 826 could actually total in the hundreds of thousands of dollars for simple mistakes in reporting.

No Discretion for Administrative Director

While SB 826 does give the Administrative Director (AD) authority when setting the penalty levels, it provides no discretion to when applying penalties. The bill states that the AD “shall assess an administrative penalty” for failure to comply. This would prohibit the AD from exercising discretion in the application of penalties based on the circumstances.

Workers’ Compensation Costs Increasing

There is no question that workers’ compensation costs are increasing rapidly in California. The Workers’ Compensation Insurance Rating Bureau (WCIRB) has repeatedly recommended an increase in the pure premium advisory rate, which measures cost trends for insurers. Workers’ compensation is a direct cost of employing Californians, and the state should not be adding to the cost of employing out-of-work Californians while the state is saddled with 12.3% unemployment.

For these reasons, CCWC is opposed to SB 826 (Leno) and respectfully requests that you vote “no” when this bill is heard in the Senate Labor and Industrial Relations Committee.

Sincerely,

Jason Schmelzer
Legislative Advocate

cc. Members, Senate Labor and Industrial Relations Committee